

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WD OF TN, MEMPHIS

PAUL FARNSWORTH a/k/a
RONNIE BRADFIELD,

Plaintiff,

vs.

EDWARD BAXTER,

Defendant.

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No. 03-2950-B/V

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL

On February 24, 2005, plaintiff Paul Farnsworth, a/k/a Ronnie Bradfield, Tennessee Department of Correction prisoner number 219625, who is currently incarcerated at the Northwest Correctional Complex in Tiptonville, Tennessee, filed a motion seeking appointment of counsel. The defendant has not responded to this motion, and the time for a response has expired.

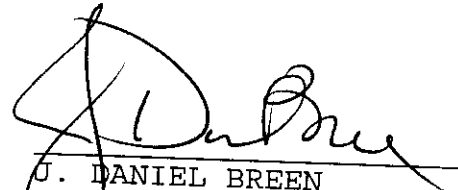
"There is no constitutional or . . . statutory right to counsel in federal civil cases." Farmer v. Haas, 990 F.2d 319, 323 (7th Cir. 1993). Pursuant to 28 U.S.C. § 1915(d), a district court is vested with discretion to appoint an attorney to represent an indigent party in a civil case. McMath v. Alexander, 486 F. Supp. 156, 157 (M.D. Tenn. 1980). No funds have been appropriated to pay the fees of any appointed counsel, however, and "§ 1915(d) does not authorize the federal courts to make coercive appointments of

counsel" to represent indigent civil litigants. Mallard v. United States Dist. Court for the S. Dist. of Iowa, 490 U.S. 296, 310 (1989). Generally, a court will only appoint counsel in exceptional circumstances. Willett v. Wells, 469 F. Supp. 748, 751 (E.D. Tenn. 1977). Although "no comprehensive definition of exceptional circumstances is practical," Branch v. Cole, 686 F.2d 264, 266 (5th Cir. 1982), courts resolve this issue through a fact-specific inquiry. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986). Examining the pleadings and documents in the file, the Court analyzes the merits of the claims, the complexity of the case, the pro se litigant's prior efforts to retain counsel, and his ability to present the claims. Henry v. City of Detroit Manpower Dep't, 763 F.2d 757, 760 (6th Cir. 1985); Wiggins v. Sargent, 753 F.2d 663, 668 (8th Cir. 1985).

In this case, the plaintiff's motion does not demonstrate the existence of extraordinary circumstances that would warrant appointment of counsel. The facts concerning this claim are not complex, and the plaintiff is able to conduct legal research, promulgate discovery requests, and file and respond to motions. Finally, the Court is aware that there is a severe shortage of attorneys willing to accept appointment to prisoner civil rights cases on a pro bono basis. Under these circumstances, and entirely apart from the merits of the instant case, plaintiff's history of filing meritless litigation does not make him a viable candidate

for appointment of counsel.¹ Accordingly, the motion for appointment of counsel is DENIED.

IT IS SO ORDERED this 1st day of August, 2005.


J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE

¹ Farnsworth, using the name Ronnie Bradfield, has previously filed four civil rights lawsuits in this district that were dismissed for failure to state a claim or as frivolous. See Bradfield v. City of Memphis, et al., No. 96-3184-D/V (W.D. Tenn. dismissed Feb. 3, 1997) (collecting cases). Accordingly, pursuant to 28 U.S.C. § 1915(g), Farnsworth "may no longer file any action in this district in which he proceeds in forma pauperis unless he demonstrates that he "is under imminent danger of serious physical injury." Case No. 96-3184, 02/03/97 Order at 4.



Notice of Distribution

This notice confirms a copy of the document docketed as number 92 in case 2:03-CV-02950 was distributed by fax, mail, or direct printing on August 3, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT